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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,788	07/22/2003	Tony Reno	03-015-TR	7499

7590 08/17/2005

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EXAMINER

MATHEW, FENN C

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 08/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No. 10/624,788	Applicant(s) RENO, TONY	
	Examiner Fenn C. Mathew	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Noffsinger (U.S. 4,647,039). Please refer to paragraph 2 of the office action dated March 1, 2005.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 25-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noffsinger alone. Please refer to paragraph 4 of the office action dated March 10, 2005.

Response to Arguments

5. Applicant's arguments filed 06/06/2005 have been fully considered but they are not persuasive. With respect to claim 1, the claim limitation merely recites 'a support structure'. Applicant is reminded that limitations in the specification are not read into the claims and that the claims are examined in the broadest reasonable light. With respect to claim 2, the phrase "supports the strongest range of motion" provides no structural limitation. In fact, Noffsinger appears to meet that requirement, as if the support structure were unable to support the strongest range of motion, bench press exercises

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could not be performed. With respect to claim 3, the claim merely recites a base member. Once again Examiner points out that limitations from the specification are not read into the claims themselves. With regards to claim 4, Examiner agrees that the rectangular sleeve 48 is welded to the bar, but that does not mean that the sleeve/bar is welded to the slide block or plate. With respect to claim 5-8, Applicant's arguments are similar to the arguments above, and the structure of Noffsinger still meets the claimed limitations as broadly claimed. With respect to claims 8-12, stated goals of the device are irrelevant when compared to prior art meeting the broad structural limitations. With regards to claims 13-24, the above arguments have addressed all of the Applicant's arguments. With regards to the limitation "withstand the forces that accompany the strongest range of motion", if Applicant's arguments were considered to be true, then one could not use Noffsinger to perform bench press exercises. This of course based on the specification of Noffsinger is entirely false, as one could perform bench press exercises. As cited by the Applicant, the 'strongest range of motion' merely refers to a phase during a normal repetition of bench press, which may be performed on the Noffsinger device. With regards to the method claims, Applicant's arguments are not persuasive. Applicant is attempting to impart definitions to broad terminology that is consistent with the specification. To reiterate, limitations from the specification are not read into the claims. Examiner appreciates Applicant's intent, but examination is based on the claims as presented. Although events may occur for different reasons, (i.e. abstention period), that line of reasoning alone is not sufficient to overcome the prior art of record.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C. Mathew whose telephone number is (571) 272-4978. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

fcm
fcm
August 8, 2005

A handwritten signature in black ink, appearing to read "Michael A. Brown", with a long horizontal flourish extending to the right.

**MICHAEL A. BROWN
PRIMARY EXAMINER**